

APPLICATION UNDER 28 U.S.C. § 2241 FOR WRIT OF  
HABEAS CORPUS BY A PERSON IN STATE OR FEDERAL CUSTODY  
(Do not use as a § 2254 or as a § 2255)



UNITED STATES DISTRICT COURT

SOUTHERN District of West Virginia

Case No. 5:22-cv-00175  
(Clerk will supply)

Name and Prison Number: MILK TURNER 42326-039

Place of Confinement: BECKLEY WV BEAVER, WV

Name of Applicant: MILK TURNER  
(include name under which convicted)

Name of Respondent: KATINA HECKARD  
(Name of Warden)

APPLICATION

1. Name and location of court which imposed the sentence you challenge: EASTERN  
DISTRICT OF MICHIGAN (NORTHERN DIVISION)

2. Date of judgment of conviction: 9-17-09

3. Length of sentence imposed: 188 MONTHS

4. Nature of offense(s) of conviction (all counts): DISTRIBUTION OF  
HEROIN

5. What was your plea as to each count? (Check one)

☐ Not Guilty

☒ Guilty

☐ Nolo contendere

If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, give details:

PLEA AGREEMENT

6. If you pleaded not guilty, what kind of trial did you have? (Check one) ☐ Jury ☐ Judge only

7. Did you testify at the trial? ☐ Yes ☐ No

8. Did you appeal from the judgment of conviction? ☐ Yes ☐ No

9. If you did appeal, answer the following:

(a) Name of Court: \_\_\_\_\_

(b) Result: \_\_\_\_\_

(c) Date of result and citation, if known: \_\_\_\_\_

(d) Grounds raised: \_\_\_\_\_

(e) If you sought further review of the decision on appeal by a higher court, answer the following:

(1) Name of Court: \_\_\_\_\_

(2) Result: \_\_\_\_\_

(3) Date of result and citation, if known: \_\_\_\_\_

(4) Grounds raised: \_\_\_\_\_

(f) If you filed a petition for certiorari or appeal in the Supreme Court of the United States as part of that direct appeal, answer the following:

(1) Name of Court: Supreme Court of the United States

(2) Result: \_\_\_\_\_

(3) Date of result and citation, if known: \_\_\_\_\_

(4) Grounds raised: \_\_\_\_\_

10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions with respect to this judgment in any court, state or federal (a post-conviction proceeding)? ☒ Yes ☐ No

11. If your answer to 10 was "Yes," answer the following:

(a) First post-conviction proceeding:

(1) Name of Court: EASTERN DISTRICT OF MICHIGAN

(2) Nature of proceeding: 2255

(3) Grounds raised: CAREER OFFENDER

(4) Did you receive an evidentiary hearing? ☐ Yes ☒ No

(5) Result: AFFIRMED

(6) Date of result: N/A

(b) Second post-conviction proceeding:

(1) Name of Court: \_\_\_\_\_

(2) Nature of proceeding: \_\_\_\_\_

(3) Grounds raised: \_\_\_\_\_

(4) Did you receive an evidentiary hearing? ☐ Yes ☐ No

(5) Result: \_\_\_\_\_

(6) Date of result: \_\_\_\_\_

(c) Did you appeal to the highest court having jurisdiction the result of the post-conviction proceeding(s)?

(1) First proceeding: ☐ Yes ☒ No

(2) Second proceeding: ☐ Yes ☐ No

- (d) If you did **not** appeal from the adverse result of the post-conviction proceeding(s), explain briefly why you did not:

N/A

12. If you have **not** been convicted, answer the following:

- (a) Type of decision or action you challenge: \_\_\_\_\_

- (b) Who made the decision? \_\_\_\_\_

- (c) Date of decision: \_\_\_\_\_

- (d) Was there a hearing of any kind? ☐ Yes ☐ No

Hearing conducted by: \_\_\_\_\_

Location and date: \_\_\_\_\_

Result: \_\_\_\_\_

### **Exhaustion of Administrative Remedies**

13. If your claim concerns a FEDERAL PAROLE matter, answer the following:

- (a) Did you appeal the decision to the National Appeals Board of the U.S. Parole Commission? ☐ Yes ☐ No

- (b) Appeal filing date: \_\_\_\_\_

- (c) Grounds raised: \_\_\_\_\_

- (d) Result: \_\_\_\_\_

- (e) Date of result: \_\_\_\_\_

14. If your claim concerns computation of your FEDERAL sentence, or a claim other than FEDERAL parole, answer the following:

- (a) Did you attempt to resolve your complaint informally? ☒ Yes ☐ No
- (b) Did you appeal to the Warden? ☒ Yes ☐ No
- (c) Did you appeal to the Regional Director? ☒ Yes ☐ No
- (d) Did you appeal to the General Counsel? ☐ Yes ☒ No

If you did not use the Administrative Remedy Procedure, explain why you did not do so:

---

---

15. If you are a STATE prisoner, answer the following:

Did you exhaust all administrative remedies available to you? ☐ Yes ☐ No

If you did not exhaust your administrative remedies, explain why you did not do so:

---

---

16. Have you filed any previous lawsuits related to your present claims(s)? ☐ Yes ☒ No

- (a) Name and location of Court: \_\_\_\_\_
- (b) Case number and style: \_\_\_\_\_
- (c) Nature of lawsuit: \_\_\_\_\_
- (d) Grounds raised: \_\_\_\_\_
- (e) Result and date: \_\_\_\_\_



### Grounds for Relief

17. State *concisely* every ground on which you claim that you are being held in violation of the Constitution, laws or treaties of the United States. Summarize *briefly* the *facts* supporting each ground. If necessary, you may attach pages stating additional grounds and *facts* supporting the same.

**CAUTION: If you fail to set forth all grounds in this application, you may be barred from presenting additional grounds at a later date.**

For your information, the following is a list of the most frequently raised grounds for relief in applications for writs of habeas corpus pursuant to 28 U.S.C. § 2241. You may raise any grounds which you may have other than those listed. However, you should raise in this application all available grounds (relating to this conviction or sentence) on which you base your allegations that you are being held in custody unlawfully.

**Do not** check any of these listed grounds. If you select one or more of these grounds for relief, you must allege facts. The motion will be returned to you if you merely check one or more of these listed grounds.

- (i) U. S. Parole Commission unlawfully revoked my parole.
- (ii) Federal Bureau of Prisons unlawfully computed my sentence.
- (iii) Federal Bureau of Prisons unlawfully denied me credit for time served in state or federal prison.
- (iv) Federal Bureau of Prisons or State prison system unlawfully revoked my good-time credits.
- (v) There is an unlawful detainer lodged against me.
- (vi) I am a citizen and domiciliary of a foreign country and I am in custody for an act which I had a right to commit under the laws of my country.
- (vii) The act for which I was convicted is no longer considered to be a crime, and I cannot raise this issue in a § 2254 petition or a § 2255 motion.

- (a) Ground One: Supporting FACTS (state *briefly* without citing cases or law): <sup>WASNT</sup> GIVEN  
CREDIT FOR TIME SERVED 659 DAY AND CONTRARY TO  
NOTE 2 561.3(B) DICTATES
- (b) Ground Two: Supporting FACTS (state *briefly* without citing cases or law): \_\_\_\_\_  
CONFLICT WITH CONTROLLING LAW 18 U.S.C. 3585 (B) 561.3.(B)

- (c) Ground Three: Supporting FACTS (state *briefly* without citing cases or law): \_\_\_\_\_  
ADMINISTRATING AGENCY CONSTRUCTION OF THE STATUTE  
IS AT ISSUE
- (d) Ground Four: Supporting FACTS (state *briefly* without citing cases or law): NOV 1, 1987  
PRIOR TO THE ENACTMENT OF SECTION 3585 CREDIT FOR  
PRESENTENCE CUSTODY TIME WAS GOVERN BY FORMER 18 U.S.C. 3568
18. If any of the grounds listed in 17(a), (b), (c), and (d) were not previously presented in any other court, either state or federal, state *briefly* what grounds were not so presented, and give your reasons for not presenting them: NEWLY DISCOVERED EVIDENCE
19. Do you have any petition or appeal now pending in any court, either state or federal, as to the judgment/decision under attack? ☐ Yes ☒ No
20. Give the name and address, if known, of each attorney who represented you in the following stages of judgment/decision attacked herein:
- (a) Preliminary hearing: \_\_\_\_\_
- (b) Arraignment and plea: \_\_\_\_\_
- (c) Trial: \_\_\_\_\_
- (d) Sentencing: \_\_\_\_\_
- (e) Appeal: \_\_\_\_\_
- (f) Post-conviction proceeding: \_\_\_\_\_
- (g) Appeal from any adverse ruling in a post-conviction proceeding: \_\_\_\_\_
21. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at approximately the same time? ☐ Yes ☒ No

22. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack? ☐ Yes ☒ No

(a) If so, give name and location of court which imposed sentence to be served in the future:

\_\_\_\_\_  
\_\_\_\_\_

(b) Give date and length of the above sentence: \_\_\_\_\_

\_\_\_\_\_

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future? ☐ Yes ☐ No

**Wherefore**, the applicant prays that the Court grant applicant relief to which he may be entitled in this proceeding.

\_\_\_\_\_  
Signature of Attorney (if any)

I declare under penalty of perjury that the foregoing is true and correct.

Executed On: \_\_\_\_\_

4-7-22

(Date)



\_\_\_\_\_  
Signature of Applicant



MILK TURNER 4336-039  
FEDERAL CORRECTIONAL Institution (Beckley)  
P.O. BOX 350  
BEAVER, WV 25813



Clerk of Court

110 N. HEBER ST #119

Beckley, WV 25801

